

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): STEER et al. Group Art Unit: 1657
 Serial No.: 10/549,867 Examiner: : AFREMOVA, Vera
 Filed: September 22, 2005 Docket No.: 110.0199 0101
 Confirmation No.: 4764
 Title: METHODS OF PROMOTING CELL VIABILITY

National Stage Processing Branch of the Office of PCT Operations
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

We are transmitting the following documents along with this Transmittal Sheet (which is submitted in triplicate):

☒ **Small entity status is entitled to be asserted in the above-identified application.**

☒ An itemized return postcard.

☒ **Other: COMMUNICATION TO NATIONAL STAGE PROCESSING BRANCH OF THE OFFICE OF PCT (2 pgs); EXHIBIT A (copy of communication from Office of PCT Legal Administration (2 PGS)); EXHIBIT B (copy of previously filed transmittal documents (3 pgs)); EXHIBIT C (copy of date stamped returned postcard (1 pg)); EXHIBIT D (copy of previously filed Declaration (8 pgs)).**
 Amendment ☐ No Additional fee is required. ☐ The fee has been calculated as shown:

Fee Calculation for Claims Pending After Amendment					
	Pending Claims after Amendment (1)	Claims Paid for Earlier (2)	Number of Additional Claims (1-2)	Cost per Additional Claim	Additional Fees Required
Total Claims				x \$25 =	
Independent Claims				x \$105 =	
One or More New Multiple Dependent Claims Presented? If Yes, Add \$185 Here →					
Total Additional Claim Fees Required					

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers and please charge any additional fees or credit overpayment to Deposit Account No. 13-4895. Triplicate copies of this sheet are enclosed.

CERTIFICATE UNDER 37 C.F.R. §1.8: The undersigned hereby certifies that this Transmittal Letter and the paper(s), as described hereinabove, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: National Stage Processing Branch of the Office of PCT Operations, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 19 day of December, 2007.

MUETING, RAASCH & GEBHARDT, P.A.
 Customer Number: 26813

By: Nancy A. Johnson
 Name: Nancy A. Johnson
 Reg. No.: 47,266
 Direct Dial: 612-305-4723
 Facsimile: 612-305-1228

Because applicants have not yet satisfied the oath or declaration requirement of 35 U.S.C. 371(c)(4), the Notification Of Acceptance and filing receipt mailed 25 January 2007 were issued in error (both of these forms indicate that the requirements of 35 U.S.C. 371(c) were satisfied as of 22 September 2005). The Notification Of Acceptance and filing receipt mailed 25 January 2007 are therefore appropriately vacated.

Before a new Notification Of Acceptance and filing receipt may be properly issued, applicants are required to submit an oath or declaration executed by inventor Walter C. LOW that satisfies the requirements of 37 CFR 1.497.

CONCLUSION

The Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 25 January 2007 are hereby **VACATED**.

Applicants have not yet submitted an acceptable oath or declaration executed by inventor Walter C. LOW.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of a properly executed oath or declaration in compliance with 37 CFR 1.497, and the surcharge for filing the oath or declaration later than thirty months after the priority date.



Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): STEER et al.
Docket No.: 110.01990101
Title: METHODS OF PROMOTING CELL VIABILITY

Mail Stop PCT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

We are transmitting the following documents along with this Transmittal Sheet (which is submitted in triplicate):

- ☒ An itemized return postcard.
☒ Transmittal Letter to the United States Designated/Elected Office (DO/EO/US Concerning a Submission Under 35 U.S.C. 371 (2 signed copies, 2 pgs. each, in duplicate).
☒ Application Data Sheet (2 pgs.).
☐ Formal Drawing (_ figs on _ sheets).
☐ A certified copy of a _____ application, Serial No. _____, filed _____, 200____, the right of priority of which is claimed under 35 U.S.C. 119.
☒ Other: Copy of International Search Report (4 pgs.); Declaration and Power of Attorney (8 pgs).
☒ Please charge Deposit Account 13-4895 in the amount of \$1625.00 for the filing fee.

Please charge any additional fees or credit overpayment to Deposit Account No. 13-4895. A triplicate copy of this sheet is enclosed.

MUETING, RAASCH & GEBHARDT, P.A.
P.O. Box 581415, Minneapolis, MN 55458
(612-305-1220)

By: Ann M. Mueeting
Name: Ann M. Mueeting
Reg. No.: 33,977
Direct Dial: 612/305-1217

CERTIFICATE UNDER 37 C.F.R. 1.10:

"Express Mail" mailing label number: EV 405492427 US Date of Deposit: September 22, 2005

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Sue Dombroske
Printed Name: Sue Dombroske

(TRANSMITTAL UNDER RULE 1.10)

**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A SUBMISSION UNDER 35 U.S.C. 371**

ATTORNEY'S DOCKET NUMBER

110.01990101

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

INTERNATIONAL APPLICATION NO.
PCT/US03/09819

INTERNATIONAL FILING DATE
02 April 2003

PRIORITY DATE CLAIMED
02 April 2003

TITLE OF INVENTION

METHODS OF PROMOTING CELL VIABILITY

APPLICANT(S) FOR DO/EO/US

STEER, Clifford J.; LOW, Walter C.

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

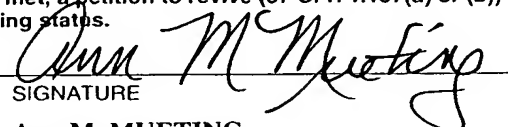
1. ☒ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below.
4. ☒ The US has been elected (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371 (c)(2))
 - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ has been communicated by the International Bureau.
 - c. ☒ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☐ is attached hereto.
 - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3))
 - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ have been communicated by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☒ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)).
11. ☐ A copy of the International Preliminary Examination Report (PCT/IPEA/409).
12. ☒ A copy of the International Search Report (PCT/ISA/210).

Items 13 to 23 below concern document(s) or information included:

13. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
14. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
15. ☐ A **FIRST** preliminary amendment.
16. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
17. ☐ A substitute specification.
18. ☐ A power of attorney and/or change of address letter.
19. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825.
20. ☐ A second copy of the published International Application under 35 U.S.C. 154(d)(4).
21. ☐ A second copy of the English language translation of the International Application under 35 U.S.C. 154(d)(4).
22. ☒ Express Mail Label No. **EV 405492427 US**
23. ☒ Other items or information:

Application Data Sheet (2 pgs); Transmittal Letter (1 pg in triplicate); itemized return postcard (1).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO (if known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO. PCT/US03/09819		ATTORNEY'S DOCKET NUMBER 110.01990101	
The following fees are submitted:				CALCULATIONS	PTO USE
24. <input checked="" type="checkbox"/> Basic national fee		\$300		\$	\$300.00
25. <input checked="" type="checkbox"/> Examination fee					
If International preliminary examination report prepared by USPTO and all claims satisfy provisions of PCT Article 33(1)-(4)		\$100		\$	\$200.00
All other situations		\$200			
26. <input checked="" type="checkbox"/> Search fee					
Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority		\$100			
International Search Report prepared and provided to the Office		\$400			
All other situations		\$500		\$	\$100.00
TOTAL OF 24, 25 and 26 =				\$	\$600.00
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole)		RATE	
48	- 100 = 0	/50 = 0		x \$250.00	
				\$	\$0.00
Surcharge of \$130.00 for furnishing the oath or declaration later than months from the earliest claimed priority date (37 CFR 1.492(e)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	65 - 20 =	45	x \$50.00		
Independent claims	5 - 3 =	2	x \$200.00		
MULTIPLE DEPENDENT CLAIMS (if applicable) <input type="checkbox"/> + \$360.00				\$	\$0.00
TOTAL OF ABOVE CALCULATIONS =				\$	\$3,250.00
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$	\$1,625.00
SUBTOTAL =				\$	\$1,625.00
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				\$	\$0.00
TOTAL NATIONAL FEE =				\$	\$1,625.00
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property +				\$	\$0.00
TOTAL FEES ENCLOSED =				\$	\$1,625.00
				Amount to be	\$
				Amount to be	\$
a. <input type="checkbox"/> A check in the amount of \$ _____ to cover the above fees is enclosed. b. <input checked="" type="checkbox"/> Please charge my Deposit Account No. <u>13-4895</u> in the amount of <u>\$1,625.00</u> to cover the above fees. A duplicate copy of this sheet is enclosed. c. <input checked="" type="checkbox"/> The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>13-4895</u> . A duplicate copy of this sheet is enclosed. d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.					
NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.					
SEND ALL CORRESPONDENCE TO:					
				 SIGNATURE	
				Ann M. MUETING	
				NAME	
				33,977	
				REGISTRATION NUMBER	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	STEER et al.)	Group Art Unit:	1657
)		
Serial No.:	10/549,867)	Examiner:	AFREMOVA, Vera
)		
Filed:	September 22, 2005)	Confirmation No.	4764
For:	METHODS OF PROMOTING CELL VIABILITY			

RESPONSE TO COMMUNICATION FROM THE OFFICE
OF PCT LEGAL ADMINISTRATION

National Stage Processing Branch of the Office of PCT Operations
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the September 21, 2007, Communication from Richard Ross, Attorney Advisor, Office of PCT Legal Administration (*copy enclosed as Exhibit A*), we provide the enclosed copy of our previously provided transmittal letter to the U.S. Designated/Elected Office (DO/EO/US) concerning a submission under 35 U.S.C. 371, filed September 22, 2005 (*copy enclosed as Exhibit B*). Our transmittal of September 22, 2005, included:

- Transmittal Letter to the U.S. Designated/Elected Office (DO/EO/US) concerning a Submission under 35 U.S.C. 371 (2 signed copies, 2 pgs. Each, in duplicate)
- Application Data Sheet (2 pgs)
- Copy of International Search Report (4 pgs)
- Declaration and Power of Attorney (8 pgs)

We also provide a copy of the date stamped postcard (*copy enclosed as Exhibit C*), documenting the receipt of the materials by the U.S. Patent and Trademark Office.

Response to Restriction Requirement

Page 2 of 2

Applicant(s): Steer et al.

Serial No.: 10/549,867

Confirmation No.: 4764

Filed: September 22, 2005

For: METHODS OF PROMOTING CELL VIABILITY

We respectfully submit that the U.S. Patent and Trademark Office's assertion that the declaration filed on September 22, 2005, was not executed by the second inventor, Walter C. Low, is incorrect. The line item "Declaration and Power of Attorney (8 pgs)" included the executed declaration of Walter C. Low (*copy enclosed as Exhibit D*).

Applicants respectfully request that the previous notification to vacate the Notification of Acceptance and filing receipt issued on 25 January 2007, be rescinded, and a new Notification of Acceptance and filing receipt be properly issued.

The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if there are any questions regarding this Response or if prosecution of this application may be assisted thereby.

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: National Stage Processing Branch of the Office of PCT Operations, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 19 day of December, 2007.

By: Sandy Truehart

Name: Sandy Truehart

December 19, 2007

Date

Respectfully submitted

By

Mueeting, Raasch & Gebhardt, P.A.

P.O. Box 581415

Minneapolis, MN 55458-1415

Phone: (612)305-1220

Facsimile: (612)305-1228

Customer Number 26813

By: Nancy A. Johnson

Nancy A. Johnson

Reg. No. 47,266

Direct Dial (612)305-4723



UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT A

21 SEP 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

10/21/07 Receive Notif. of
Miss. Requir. ?

In re Application of:
STEER, Clifford, et al.
U.S. Application No.: 10/549,867
PCT No.: PCT/US2003/009819
International Filing Date: 02 April 2003
Priority Date: None
Atty Docket No.: 110.01990101 ✓
For: METHODS OF PROMOTING CELL
VIABILITY

COMMUNICATION

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371(c).

BACKGROUND

On 02 April 2003, applicants filed international application PCT/US2003/009819. The application did not claim an earlier priority date, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 02 October 2005.

On September 22, 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the U.S. basic national fee and a declaration executed by one of the two inventors herein.

On 25 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied on 22 September 2005.

Also on 25 January 2007, a filing receipt was issued identifying 22 September 2005 as the 371(c) date.

DISCUSSION

A review of the application file reveals that the declaration filed herein was not executed by the second inventor, Walter C. LOW. The declaration therefore fails to satisfy the requirements of 37 CFR 1.497(a)(1), and it cannot be accepted in satisfaction of the oath or declaration requirement of 35 U.S.C. 371(c)(4).

RECEIVED

SEP 24 2007

MUETING & RAASCH

Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:

Applicant(s): STEER et al.
Filed: Herewith
Title: METHODS OF PROMOTING CELL VIABILITY

10/549867DKT
2

Enclosed: Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission Under 35 U.S.C. 371 (2 signed copies, 2 pgs each, in duplicate); Application Data Sheet (2 pgs.); copy of International Search Report (4 pgs.); Declaration ~~and~~ Power of Attorney (8 pgs); and transmittal document (in triplicate).

Mailed: September 22, 2005 Express Mail Label No. EV 405492427 US
Docket: 110.01990101 AMM/skd

JC04 Rec'd PCT/PTO 22 SEP 2005**EV 405492427 US**